

1 **MATTHEW Q. CALLISTER, ESQ.**

State Bar No.1396

2 mqc@call-law.com

BROOKE A. BOHLKE, ESQ.

3 State Bar No.9374

bab@call-law.com

4 **CALLISTER + ASSOCIATES**

823 Las Vegas Boulevard South, 5th Floor

5 Las Vegas, Nevada 89101

Telephone: (702) 385-3343

6 Facsimile: (702) 385-2899

Attorneys for Plaintiffs

7 **UNITED STATES DISTRICT COURT**

8 **DISTRICT OF NEVADA**

9 TIM MOLYNEUX PRODUCTIONS, a
10 Nevada Corporation; TIMOTHY
MOLYNEUX, individually,

11 Plaintiffs,

12
13 v.

14 PLATINUM MASTERS MONSTER
15 CIRCUS, LLC., a Tennessee Corporation;
16 ANTHONY CARDENAS aka TONY
MONTANA individually; PETE
17 MERLUZZI, individually; PAUL ZAMEK
individually; and KEVIN WAYNE
18 WALDROP, individually, and COLONY
RESORTS LVH ACQUISITIONS, LLC dba
19 LAS VEGAS HILTON, DOES 1-5,
inclusive, and ROE CORPORATIONS 1-5,
20 inclusive

21 Defendants.

CASE NO. : 2:09-cv-00645-RCJ-PAL

**ORDER GRANTING
PLAINTIFFS' EX-PARTE
APPLICATION TO CONTINUE
CALENDAR CALL AND TRIAL**

(First Request)

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23 Plaintiffs hereby respectfully submits this Ex-Parte Application for an order continuing the
24 calendar call and trial to a date and time after this Court has had an opportunity to make a decision
25 on Plaintiffs' renewed Motion for Summary Judgment against Pete Merluzzi ("Merluzzi") and Paul
26 Zamek ("Zamek"), as follows:

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1 In support of this Application, Plaintiffs submit the following Memorandum of Points and
2 Authorities and all pleadings and papers on file herein.

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4 Dated this 29th day of June, 2010.

5 **CALLISTER + ASSOCIATES, LLC**

6 By: /s/ Brooke A. Bohlke, Esq.
7 **MATTHEW Q. CALLISTER, ESQ.**
8 Nevada Bar No. 001396
9 **BROOKE A. BOHLKE, ESQ.**
10 Nevada Bar No. 009374
11 823 Las Vegas Blvd. South, 5th Floor
12 Las Vegas, NV 89101
13 Phone: (702) 385-3343
14 *Attorneys for Plaintiffs*

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MEMORANDUM OF POINTS AND AUTHORITIES

STATEMENT OF FACTS

1. Plaintiffs seek a continuance of the calendar call, currently set for July 6, 2010 at 8:30 a.m. and a continuance of the trial, currently set for July 12, 2010 at 8:30 a.m.
2. Plaintiffs seek this continuance because they believe they will be successful on a motion for summary judgment against Merluzzi and Zamek, thus alleviating the need to go forward with trial.
3. Plaintiffs previously filed a motion to summary judgment against all Defendants . [Document 51].
4. However, Plaintiffs were under the erroneous belief that James Herbe, Esq. represented all Defendants.
5. In fact, James Herbe, Esq. did not represent Merluzzi and Zamek.
6. Acting under the erroneous belief that Merluzzi and Zamek were represented by counsel, Plaintiffs failed to serve Merluzzi and Zamek with the motion.
7. On June 11, 2010, this Court granted in part Plaintiffs' motion for summary judgment against

all defendants except for Merluzzi and Zamek. [Document 55].

8. Specifically, the court held that Tim Molyneux Productions ("TMP") was entitled to \$156,000 in lost wages. [Document 55].

9. Plaintiffs now seek the opportunity to re-file the Motion for Summary Judgment against Merluzzi and Zamek, and serve the same upon them.

10. Plaintiffs believe that had they served Merluzzi and Zamek with the motion, originally, that the Motion for Summary Judgment would have been granted against them as well.

POINTS AND AUTHORITIES

A. IT IS APPROPRIATE FOR THIS HONORABLE COURT TO CONTINUE THE CALENDAR CALL AND TRIAL PURSUANT TO LR 6-1.

LR 6-1. REQUESTS FOR CONTINUANCE, EXTENSION OF TIME OR ORDER SHORTENING TIME.

(a) Every motion requesting a continuance, extension of time, or order shortening time shall be "Filed" by the clerk and processed as an expedited matter. *Ex parte* motions and stipulations shall be governed by LR 6-2.

(b) Every motion or stipulation to extend time shall inform the court of any previous extensions granted and state the reasons for the extension requested. A request made after the expiration of the specified period shall not be granted unless the moving party, attorney, or other person demonstrates that the failure to act was the result of excusable neglect. Immediately below the title of such motion or stipulation there shall also be included a statement indicating whether it is the first, second, third, etc., requested extension, i.e.:

STIPULATION FOR EXTENSION OF TIME TO FILE MOTIONS (First Request)

See LR 6-1.

In the instant action, it is appropriate for this Honorable Court to continue the trial and calendar call in order to allow the Plaintiffs an opportunity to re-file their Motion for Summary Judgment and serve Merluzzi and Zamek. Plaintiffs make this request pursuant to the guidelines

1 under LR 6-2 as the calendar call is set for July 6, 2010 (next week) and the trial is set for July 12,
2 2010. As such, this application is properly brought before this Court on an ex-parte basis.
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5 **CONCLUSION**

6 Based upon the foregoing, Plaintiffs request that the calendar call and trial be continued to a
7 date and time after this Court has had an opportunity to make a decision on Plaintiffs' renewed
8 Motion for Summary Judgment against Merluzzi and Zamek.

9 DATED this 29th day of June, 2010.

CALLISTER + ASSOCIATES, LLC

10 /s/ Brooke A. Bohlke, Esq.
11 **BROOKE A. BOHLKE, ESQ.**
12 Nevada Bar No. 009374
13 823 Las Vegas Blvd. South, 5th Floor
14 Las Vegas, NV 89101
15 *Attorneys for Plaintiffs*

16 **ORDER:** Trial is continued to October 18, 2010, at 8:30 a.m. Calendar Call is continued to October 12,
17 2010, at 8:30 a.m. Counsel for plaintiffs shall give notice of the continuance to defendants.

18 IT IS SO ORDERED this 30th day of June, 2010.

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Gloria M. Navarro
United States District Judge